



TOQUERVILLE PLANNING COMMISSION MINUTES (WORK MEETING WAS JOINT WITH CITY COUNCIL)

6:00 P.M. Joint Work Meeting with City Council

7:00 P.M. Regular Meeting Wednesday, July 22, 2015

Held at 212 N. Toquerville Blvd, Toquerville Utah

6:03 pm – WORK MEETING:

ATTENDANCE: Mayor M. Darrin LeFevre, City Council (CC) Members: Darren Cottam, and Ty Bringham, Planning Commission (PC) Members: Chair Keen Ellsworth, Alex Chamberlain, David Hawkins, Jerome Gourley, and Mike Ruesch, Zoning/Staff Administrator: Mike Vercimak, City Recorder: Renee Garner, Others: Building Inspector John Postert, Debbie Grygla, Jerry Eves, Lance Gubler, Lynn Olds, Anita Eaton, Debara Taut, Melanie McCartney Jessica Russo, Rebecca & Matt G. (last name unreadable), Vanessa Haines, Rob Haines, Shirley Vanderwerff, Barbara Hugentobler, Vickie Ott, Brook Tarran, and Gerard Killeen.

1-a. Review of assignments given to PC from CC. CC attended for joint discussion with PC regarding short term rentals. PC Chair Keen Ellsworth welcomed all and acknowledged the CC members and Mayor in attendance. He outlined the work meeting; the joint session would go from 6:00 pm to 6:30 pm wherein discussion would only cover short term rentals. At 6:30 pm the CC would be excused and the PC would continue with the work meeting at the normal work meeting time.

Work meeting began around the table. Chair gave a brief review of the work done on short term rentals; PC had spent months coming up with an ordinance draft they could pass on to CC. CC reviewed it in May. It had a tie vote wherein Mayor LeFevre broke it with a nay vote. David asked if the person who asked this matter to be revisited could comment in order to hear their arguments for passage. Mayor responded that he had many people approach him asking him to put it back on the docket. Chair invited Lynn Olds to comment briefly. Lynn stated that PC had passed it so it shouldn't be a big deal to revisit it. He felt long term rentals were a bigger problem for a community than vacation rentals. If a long term renter caused problems it's tough to get them out. He said that in a vacation rental the people are never there long enough to cause a problem. He thought the process of approval would alert the neighbors of the intent. He opined that vacation rentals were a great thing and shouldn't be a problem.

Chair asked for each member of CC and PC to make a brief comment of whether they were for or against reopening this subject and why. He started on his right: 1) "Should the City revisit the subject of short term/vacation rentals?", and 2) "In your opinion, why?"

Mike Ruesch: 1) Yes, 2) Property owners have the right to use their property as they feel best suited for them. Homes are generally kept in better condition than other uses. Mike also thought the law should have more teeth to protect neighborhoods.

Jerome Gourley: 1) Yes, 2) He agreed with Mike R's points, it should be a property owner's right to do under the right conditions.

Mayor Darrin LeFevre: 1) Yes, 2) He felt that the document wasn't ready for passage, but with a "complete document" he would have said yes, (alluding to his tie-breaker vote in the May Council meeting). He thought the ownership should show 100% ownership, and the neighborhood, if it objects, should have a say to not allow it.

Daren Cottam: 1) Yes, 2) He voted no because he felt the draft was too restrictive already and would like to see it more open. He felt parking should be addressed in the code, and he thought a system wherein violators of this ordinance could have their licenses revoked would be a good plan. He felt that people should not have to live in town to do them. He has one in Cedar and thinks they are great.

Alex Chamberlain: 1) Yes, 2) He thought government should err on the side of liberal property rights in principle.

Ty Bringham: 1) Yes, 2) He expressed concern for the neighborhood property rights and respect for zoning. He admonished the City not to create bad law, but felt it could be done if done carefully. He agreed with Mayor that the neighbors within 300 feet radius should be allowed a vote or a voice.

David Hawkins: 1) Yes, 2) Freedom to use property is a given. He suggested zoning areas that allow it.

Keen Ellsworth: 1) No, 2) He expressed a clear opinion that he was adamantly opposed to short term rentals and thought them dangerous to the integrity of the community. He cited Bend Oregon, which had 10 illegal vacation rentals in the community 5 years ago. Bend City decided to allow them and today they have over 500 vacation rentals. It has completely changed the tenure of the whole town. He gave an example of his own family reunion in Brian Head. The home rented for the event was in a residential neighborhood. They had 12 cars, 6 ATVs, 10 mountain bikes and two u-haulers. There were 39 people living in this house for 6 days. Keen asked his dad to allow him to see the rental contract. It restricted renters to 10 people and 4 vehicles.

Chair Keen Ellsworth said the vote was 7 to 1 and that PC would go forward with this issue, but admonished members to think clearly about their neighbors and what's going to happen. He stated that theirs are the rights that we will infringe upon, and was confident that our city was poised to have the same thing happen here as happened in Bend Oregon.

Chair said he took notes on each person's comments and would see if PC could agree on an ordinance to pass on to CC in the future. He asked for any further input before CC members left. Mike Vercimak stated that he felt PC needed to have a new public hearing so they should wait to vote until August. Ty and Mayor agreed that this would be a whole new document and would need a full airing. Mike V warned that Hurricane City has been inundated with requests to do them. The Hurricane office staff asked for council help. Council and Planning Commission are now looking at this issue again. One of the greatest concerns is that people of means from all over are buying lots and homes and putting up large facilities in neighborhoods. It's created motels with residential code rules and that's dangerous.

John Postert stated that La Verkin has also allowed short term rentals and has had minimal complaints so far.

Chair thanked council for their input and moved the work meeting to the podium at 6:30.

2. Chair reviewed information on the home occupation/ conditional use permits of July, There's only one permit to be reviewed: Aaron Langston's Livestock permit. Aaron has moved and sold his home last winter to David Hawkins. David is not planning to use the permit for pigs and will let it lapse.

1-b. Review of items on the agenda: PC reviewed staff recommendations for D-1, a hair salon. Lance Gubler informed us that he was contacted by the Fire Department Chief Kuhlmann. Chief had looked at the property and realized that there were three homes on a private lane. If there was only one then it would be ok, but they will need to have 26 feet for service vehicle turn around. Keen said that if PC approved it today it would be up to the applicant to work out this issue with the fire district. D-2, This is a paintball business in a highway commercial zone. Mike V said he didn't think it fit the zoning and would be better in MU-20. PC and Mike V looked at code and discussed what they remembered the applicant saying about the business. Jeremy Johnson was not present. Mike V said the CC would not be in favor of a zone change in that area because they're hoping for retail there. D-3 and D-4, Mike V said he didn't review these two energy businesses at staff and recommended that they be sent back to staff for a complete review. D-5, Mike V described this as a building permit application request to allow a secondary structure to go over height to 22 feet instead of code's restriction to 18 feet. He strongly opined that it was a conditional use permit. John P and Mayor reiterated attorney Heath Snow's comment at Council meeting that it was a condition of the building permit and that Council could allow it. Heath had also advised that this be heard by PC in order for Council to get their opinion. Chair wondered if he should take it off of the public hearing schedule. Renee clarified that the attorney had advised against skipping the hearing since it had been posted as a public hearing. Keen opined that he didn't see any reason for PC to review it and thought they should send it on to CC.

Chair dismissed the work meeting.

7:01 pm – REGULAR MEETING:

ATTENDANCE: Planning Commission Members: Chair Keen Ellsworth, Alex Chamberlain, David Hawkins, Jerome Gourley, and Mike Ruesch, Zoning/Staff Administrator Mike Vercimak, City Recorder Renee Garner, ACSSD Representative Blair Gubler, Others: Mayor M. Darrin LeFevre, Council Member Ty Bringham, Building Inspector John Postert, Jerry Eves, Lance Gubler, Lynn Olds, Anita Eaton, Debara Taut, Melanie McCartney Jessica Russo, Rebecca & Matt G. (last name unreadable), Vannessa Haines, Rob Haines, Shirley Vanderwerff, Barbara Hugentobler, Vickie Ott, Brook Tarran, and Gerard Killeen.

Chair Keen Ellsworth called the meeting to order. 1. The pledge was led by Vice-Chair Jerome Gourley.

2. Chair asked for any disclosures or declarations of conflict with agenda items. None were mentioned.

3. Mayor to address PC regarding irrigation restrictions: David asked for this item in order to answer any questions the public had on the summer restrictions. Mayor stated that the Toquerville Secondary Water System (TSWS) board would have a public hearing on August 20, at 4:30 pm in this building and he opined that would be a more appropriate forum for any questions on the subject.

A. REVIEW OF MINUTES: Minutes of the June 17, 2015, PC meeting were reviewed and discussed. Chair called for a motion.

Motion by Mike Ruesch to approve the minutes was second by David Hawkins. Chair stated minutes were approved unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch.

B. PUBLIC HEARING: Chair declared the Public Hearing open for public comment.

1. Chair asked for comment on item 1. Application for home occupation of a hair color & design Salon. "Debbie G Studio", Applicant: Debbie Grygla, at 441 S Westfield, Property tax ID# T-161-D-1-A.

1) Anita Eaton expressed concern for the fire safety issue mentioned during work meeting. She recommended no approval until the issue was addressed since approval was really the only method of assuring compliance. No further comments on this item.

2. Chair asked for comment on item 2. Application for conditional use permit of a paintball field, 5J Battlefield LLC DBA Battle Ball Paintball". Applicant: Jeremy Johnson leasing property at Property tax ID# T-3-0-27-34-10.

1) Jessica Russo asked where it would be and PC tried to describe the southeast corner of the I-15 exit 27.

2) Anita Eaton wondered if the applicant had talked about some kind of netting since a paintball field would be a firing range. Two sides of the property have roads. She wondered about buffering areas, and stated that it was in fact, a retail business.

3) Debara Tout thought there should be more information and stated that she was against passage. No further comments on this item.

3. Chair asked for comment on item 3. Application for conditional use permit of a wind farm. Applicant: Jerry Eves, et al DBA Southwest Wind Energy LLC. Location of proposed use: north by northeast of Anderson Junction straddling both sides of Interstate 15 past but not including Pintura. Proposed use of property: wind powered electric utility. No comments.

4. Chair asked for comment on item 4. Application for conditional use permit for renewable energy or natural gas power generation. Applicant: Jerry Eves, et al DBA Strata Blue Energy, LLC. Location of proposed use: Property tax ID#: SITLA #70824, Federal tax ID#: 27-1874929, Parcel-T-3-0-22-322 and T-3-0-22- 3211, on property leased from SITLA and private entities, (west side of I-15-Anderson Junction). Proposed use of property: renewable energy or natural gas power generation.

1) Jessica Russo asked for clarification on what a natural gas generator was. Mike R explained that the gas generator would be utilized when there's no wind to create power.

5. Chair asked for comment on item 5. Approval of secondary structure in excess of 18ft. Applicant: Vanessa Haines, at 942 S Peachtree Dr., Property tax ID# T-AHP-245.

1. Shirley Vanderwerff wondered why the city would allow someone to fill their whole back yard with a building and opined that it would be a second home in a single family residential area. Chair thanked her and stated for the record that she sent him an email that he did respond back to. Shirley stated that Barbara had sent the email.
2. Barbara Hugentobler thanked the Chair for responding to her email. She stated that she lived next door to the applicant. She said that if Vanessa is allowed to build this then both this property and the one behind it will cause her to lose the pleasant use of her back yard.
3. Vicky Off opined that this would turn into an apartment rental, and that it would cause a higher density area. She stated that higher density means higher crime.

No further comments, Chair closed the public hearing.

C. PUBLIC FORUM: Comments & requests for future agenda items. Chair asked for comments.

1. Shirley Vanderwerff asked if there was anything the city could do about the messy homes of Jeff Jones and Ernie Olsen.

D. ACTION ITEM:

1. Review and possible approval of application for home occupation of a hair color & design Salon. "Debbie G Studio", Applicant: Debbie Grygla, at 441 S Westfield, property tax ID# T-161-D-1-A. PC discussed whether to pass it subject to resolving their issues with the fire district, or if it should be tabled until the fire district inspects it and oks it to the city.

Chair called for a motion.

Motion by Jerome Gourley to table the home occupation of a hair color & design Salon until further response from the applicant regarding fire district's concerns was second by Alex Chamberlain. Chair stated the motion to table the application for home occupation of a hair color & design Salon carried unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch.

2. Review and possible recommendation to Council for approval on Application for Conditional Use Permit of a paintball field, "5J Battlefield LLC DBA Battle Ball Paintball". Applicant: Jeremy Johnson leasing property at tax ID # T-3-0-27-34-10. David thought it was a poor location for a paintball facility.

Chair called for a motion.

Motion by Alex Chamberlain to recommend denial to council for a conditional use permit of a paintball field, was second by Jerome Gourley. Chair stated the motion to deny for recommendation to council the conditional use permit of a paintball field carried unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch.

3. Review and possible recommendation to Council for approval on application for conditional use permit of a wind farm. Applicant: Jerry Eves, et al DBA Southwest Wind Energy LLC. Location of proposed use: north by northeast of Anderson Junction straddling both sides of Interstate 15 past but not including Pintura. Proposed use of property: wind powered electric utility.

And 4. Review and possible recommendation to Council for approval on application for conditional use permit for renewable energy or natural gas power generation. Applicant: Jerry Eves, et al DBA Strata Blue Energy, LLC. Location of proposed use: Property tax ID#: SITLA #70824, Federal tax ID#: 27-1874929, Parcel-T-3-0-22-322 and T-3-0-22- 3211, on Property leased from SITLA and private entities, (west side of I-15-Anderson Junction). Proposed use of property: renewable energy or natural gas power generation.

Chair asked for a motion on both together.

Motion by Mike Ruesch to table items D-3 and D-4 and send them back to Staff for review and opinion was second by Alex Chamberlain. Chair stated the motion to table these items and send them back to Staff carried unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch.

5. Review and possible recommendation to Council for approval of secondary structure in excess of 18ft. Applicant: Vanessa Haines, at 942 S Peachtree Dr., Property tax ID# T-AHP-245.

Chair called for a motion.

Motion by Alex Chamberlain to remove this item from PC agenda with instruction to applicant to proceed to City Council was second by Mike Ruesch. Chair stated the motion to remove this item from PC agenda with instruction to applicant to proceed to City Council carried unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch.

6. Review and possible recommendation to Council for approval for approval to amend Title 10 by ordinance (2015.XX) to allow under condition certain short term leases or rentals of properties in residential, agricultural and other zones.

Chair called for a motion.

Motion was given by Alex Chamberlain to table ordinance (2015.XX), on short term leases or rentals of properties in residential, agricultural and other zones recommending it to council with the following changes; "prohibit" changed to "allow" in first paragraph, and adding lines d and e to paragraph 4: d. "no more than two (2) occupants per bedroom, and e. owner must comply with all applicable laws, rules, and regulations". Motion was second by Jerome Gourley. Chair stated the motion to table the short term rental ordinance carried unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch.

7. Review and possible approval of home occupation & conditional use permit(s) for the month of July, 2015.

Chair called for a motion.

7-22-15 Planning Commission Minutes Continued

Motion was by Alex Chamberlain to acknowledge that the livestock/conditional use permit of Aaron Langston at 271 W Peachtree for pigs had lapsed and was not renewed. Second was by David Hawkins. Chair stated the motion to acknowledge the lapse of the livestock/conditional use permit of Aaron Langston at 271 W Peachtree carried unanimously by Alex Chamberlain, David Hawkins, Keen Ellsworth, Jerome Gourley, and Mike Ruesch

ADJOURNMENT: Meeting was adjourned by Chair Keen Ellsworth.

Minutes of the Toquerville Planning Commission meeting of July 22, 2015, will be presented for review and approval in the August meeting.

Approved: _____

Planning Commission Chair Keen Ellsworth

Date: _____

8/19/15

Attested: _____

Renee S. Garner, City Recorder/ Clerk

